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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,401	07/03/2003	Damian J. Walter		5880

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EXAMINER

BARNEY, SETH E

ART UNIT PAPER NUMBER

3752

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/614,401

**Applicant(s)**

WALTER, DAMIAN J.

**Examiner**

Seth Barney

**Art Unit**

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/3/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Specification***

1. The disclosure is objected to because of the following informalities: Line 17 of page 10 references the main valve as 42, then immediately following references the main valve as 45. The drawings support that the main valve should be referenced as 42. Additionally, line 20 of page 11 refers to the optional main control valve as 42.

Appropriate correction is required.

***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **42a and 42b**. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 to 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0145057 to Leedy in view of U.S. Patent No. 3,260,415 to Minamiyama, and in further view of U.S. Patent No. 5,022,585 to Burgess.

Regarding claim 1, Leedy discloses a fertilizer mixing device (10) having:

-a tank (24)

-an inlet (16)

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- an outlet (48)
- an open top (30)
- connection to an existing fertilizer system (50)

Leedy does not disclose an attached dosing device to add fertilizer into the tank. Leedy also does not disclose the system having multiple zones with a polarity of zone valves.

Minamiyama discloses a dosing device for dispensing precise amounts of solid materials, specifically for the adsorption of liquids with solids (column 1 lines 11 to 60) having:

- a stationary dispenser tray (21) with several compartments (24)
- a rotating bottom plate (51) with an opening (52) corresponding to the compartment (24). See column 2 lines 41 to 46.
- rotating means (12)
- means for controlling rotating means (63, 64)
- connection means (69) to attach the dosing device to a receiving member (14)

Two rotating plates in combination with a stationary dispensing tray is considered the functional equivalent of stationary plates in combination with a rotating tray. It would have been obvious to one having ordinary skill in the art to modify the fertilizer mixing device of Leedy with the dosing device of Minamiyama in order to supply a precise amount of fertilizer to the tank. Furthermore, it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Burgess discloses a fertilizing system having a plurality of zones in combination with a master control (128). See Figure 1 and 2.

It would have been obvious to one having ordinary skill in the art to modify the fertilizer mixing device of Leedy with the zoning system of Burgess because fertilizing different zones is a common object of irrigation systems. Moreover, the master control device is necessary to regulate flow to the appropriate zones.

Regarding claim 2 and 8, the fertilizer mixer of Leedy comprises a tank having a removable outer lid (32).

Regarding claim 3, 4, 9, and 10, as aforementioned the dosing device has connection means. It would have been an obvious to one having ordinary skill in the art at the time the invention was made to use a threaded connection or latches, as either method is a common design choice in the art for securing mechanical parts.

Regarding claim 5, Minamiyama disclose the means for actuating the rotation is by motor (63).

Regarding claim 6, Burgess discloses the master control unit (128) having a clock (130) for timing. It would have been obvious to one having ordinary skill in the art to modify the fertilizer mixer with the master control unit having a clock in order to ensure proper dosage of the fertilizer for each zone.

Regarding claim 7, the abovementioned arguments apply.

Regarding claim 11, Leedy discloses a control valve (22) in an inlet pipe (18). With respect to the timer and motor controller the abovementioned arguments apply.

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Regarding claim 12, the fertilizer mixing device comprises a drain (42).

Regarding claims 13 to 19, the apparatus of Leedy as modified by Minamiyama and Burgess is capable of performing the method or steps recited in the claims.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 3,648,900 to Voigt discloses a dosing device having a rotary tray with compartments, an upper plate, and a bottom plate with a discharge opening corresponding to the shape of the compartment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (703) 308-2603. The examiner can normally be reached on 8:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

SB



Gene Mancene  
Supervisory Patent Examiner  
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